

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Vivian Dorothea Grover-Tsimi,

Civil No. 09-2852 PJS/AJB

Plaintiff,

v.

**REPORT AND RECOMMENDATION
ON MOTION FOR ENTRY OF JUDGMENT
BY MINNETONKA DEFENDANTS**

State of Minnesota, et al.,

Defendants.

Vivian Dorothea Grover-Tsimi, 210 1st Ave. N.W., #302, New Prague, Minnesota 56071,
pro se plaintiff; and

Stephanie A. Angolkar, Esq., for defendants City of Minnetonka, Michael Nelson, and
Michael Bruckner.

This matter is before the court, Magistrate Judge Arthur J. Boylan, 334 U.S. Courthouse, 316 No. Robert St., St. Paul, MN 55101, on motion by defendants Michael Nelson, Michael Bruckner and the City of Minnetonka for entry of final judgment pursuant to Rule 54(b). The moving defendants have been dismissed from this action pursuant to Order by the district court filed on July 8, 2010. The district court's Order was based upon a Report and Recommendation by the magistrate judge dated June 17, 2010, and the Order further granted a motion to dismiss by the State of Minnesota and denied motions for default judgment by the plaintiff. Claims against Scott County and several Scott County employees were not addressed in the magistrate judge's report and recommendation or the district court's order, except for a requirement that the Scott County defendants¹ file an amended answer.

¹ The report and recommendation [Docket No. 59] and the order [Docket No. 60] mistakenly referred to the Scott County defendants as Ramsey County defendants. Counsel for the Scott County defendants recognized the mistake and have complied with the order requiring

Meanwhile, the action remains pending in district court with respect to claims against Scott County, John Grover,² Sarah Gorman, John Hoffer, Scott Anderson, Louis Steinhoff, and Kevin Studnicka (Scott County defendants). In addition, plaintiff Vivian Grover-Tsimi has filed a Notice of Appeal to the 8th Circuit as to the denial of her motions for default judgment, and the district court has denied her application to proceed *in forma pauperis* on appeal, noting *inter alia* that final judgment had not been entered and that “[g]enerally, a district-court decision is not ‘final’ until it ‘ends the litigation on the merits and leaves nothing for the court to do but execute the judgment.’” While the district court has not precluded the entry of final judgment as to the moving defendants, the court did observe that the claims against Scott County defendants are still pending on the merits. In addition, the State of Minnesota has not requested entry of final judgment.

The Minnetonka defendants assert that entry of final judgment is appropriate and there is no just reason for delay because claims against them relate to a separate and discrete incident and time period, and they should not be required to incur the expense of monitoring the case until final resolution. Although the defendants’ contentions in support of the motion for entry of judgment are not without merit, significant hardship resulting from delay has not been asserted, and the prospect of multiple appeals is significant. Therefore, the court concludes that the interests in promoting judicial economy and avoiding piece-meal litigation and partial appeals, along with the concomitant monetary expenses to the parties, substantially outweighs the hardship resulting from delay and reasonable expenses likely to be incurred for monitoring

an amended answer [Docket No. 62].

² Insufficient service of process has been alleged by defendant John Grover.

the case until final resolution. See Glaziers and Glassworkers Union Local 252, 823 F.Supp. 1188, 1190 (E.D. Pa 1993) (citations omitted). The court declines to make a determination that there is no just reason for delay in this instance.

Therefore, **It is Hereby Recommended** that the Motion by Defendants Michael Nelson, Michael Bruckner, and City of Minnetonka for Entry of Final Judgment Pursuant to Rule 54(b) be **denied** [Docket No 69].

Dated: August 20, 2010

s/Arthur J. Boylan
Arthur J. Boylan
United States Magistrate Judge

Pursuant to Local Rule 72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties, written objections which specifically identify the portions of the Report to which objections are made and the bases for each objection. This Report and Recommendation does not constitute an order or judgment from the District Court and it is therefore not directly appealable to the Circuit Court of Appeals. Written objections must be filed with the Court before September 7, 2010.